

Office of the Secretary, Interior

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and/or acquisition of equivalent resources undertaken; and

(4) Interest on the amounts recoverable as set forth in section 107(a) of CERCLA. The rate of interest on the outstanding amount of the claim shall be the same rate as is specified for interest on investments of the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954. Such interest shall accrue from the later of: The date payment of a specified amount is demanded in writing, or the date of the expenditure concerned;

(b) The determination of the damage amount shall consider any applicable limitations provided for in section 107(c) of CERCLA.

(c) Where an assessment determines that there is, in fact, no injury, as defined in § 11.62 of this part, the natural resource trustee may not recover assessment costs.

(d) There shall be no double recovery under this rule for damages or for assessment costs, that is, damages or assessment costs may only be recovered once, for the same discharge or release and natural resource, as set forth in section 107(f)(1) of CERCLA.

(e) Actions for damages and assessment costs shall comply with the statute of limitations set forth in section 113(g), or, where applicable, section 126(d) of CERCLA.

[51 FR 27725, Aug. 1, 1986, as amended at 52 FR 9095, Mar. 20, 1987; 53 FR 5172, Feb. 22, 1988; 59 FR 14281, Mar. 25, 1994; 61 FR 20609, May 7, 1996]

§ 11.16 [Reserved]

§ 11.17 Compliance with applicable laws and standards.

(a) *Worker health and safety.* All worker health and safety considerations specified in the NCP shall be observed, except that requirements applying to response actions shall be taken to apply to the assessment process.

(b) *Resource protection.* Before taking any actions under this part, particularly before taking samples or making determinations of restoration or replacement, compliance is required with any applicable statutory consultation or review requirements, such as the

Endangered Species Act; the Migratory Bird Treaty Act; the Marine Protection, Research, and Sanctuaries Act; and the Marine Mammal Protection Act, that may govern the taking of samples or in other ways restrict alternative management actions.

[51 FR 27725, Aug. 1, 1986, as amended at 53 FR 5172, Feb. 22, 1988]

§ 11.18 Incorporation by reference.

(a) The following publications or portions of publications are incorporated by reference:

(1) Part II only (Fish-Kill Counting Guidelines) of "Monetary Values of Freshwater Fish and Fish-Kill Guidelines," American Fisheries Society Special Publication Number 13, 1982; available for purchase from the American Fisheries Society, 5410 Grosvenor Lane, Bethesda, MD 20814, ph: (301) 897-8616. Reference is made to this publication in §§ 11.62(f)(4)(i)(B) and 11.71(l)(5)(iii)(A) of this part.

(2) Appendix 1 (Travel Cost Method), Appendix 2 (Contingent Valuation (Survey) Methods), and Appendix 3 (Unit Day Value Method) only of Section VIII of "National Economic Development (NED) Benefit Evaluation Procedures" (Procedures), which is Chapter II of *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies*, U.S. Department of the Interior, Water Resources Council, Washington, DC, 1984, DOI/WRC/-84/01; available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; PB No. 84-199-405; ph: (703) 487-4650. Reference is made to this publication in § 11.83(a)(3) of this part.

(3) "Uniform Appraisal Standards for Federal Land Acquisition" (Uniform Appraisal Standards), Interagency Land Acquisition Conference, Washington, DC, 1973; available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; Stock Number 052-059-00002-0; ph: (202) 783-3238. Reference is made to this publication in § 11.83(c)(2)(i) of this part.

(4) The CERCLA Type A Natural Resource Damage Assessment Model for Coastal and Marine Environments Technical Documentation, Volumes I-

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VI, dated April 1996, including Revision I dated October 1997, and Revision II dated December 1999, prepared for the U.S. Department of the Interior by Applied Science Associates, Inc., A.T. Kearney, Inc., and Hagler Bailly Consulting, Inc. (NRDAM/CME technical document). Interested parties may obtain a copy of this document from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; PB96-501788; ph: (703) 487-4650. Sections 11.34 (a), (b), and (e), 11.35(a), 11.36(b), 11.40(a), and 11.42(a), and Appendix II refer to this document.

(5) The CERCLA Type A Natural Resource Damage Assessment Model for Great Lakes Environments Technical Documentation, Volumes I-IV, dated April 1996, including Revision I dated October 1997, and Revision II dated December 1999, prepared for the U.S. Department of the Interior by Applied Science Associates, Inc., and Hagler Bailly Consulting, Inc. (NRDAM/GLE technical document). Interested parties may obtain a copy of this document from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; PB96-501770; ph: (703) 487-4650. Sections 11.34 (a), (b), and (e), 11.35(a), 11.36(b), 11.40(a), and 11.42(a), and Appendix III refer to this document.

(b) The publications or portions of publications listed in paragraph (a) of this section are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a). These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the FEDERAL REGISTER.

[51 FR 27725, Aug. 1, 1986, as amended at 53 FR 9772, Mar. 25, 1988; 61 FR 20609, May 7, 1996; 62 FR 60459, Nov. 10, 1997; 65 FR 6014, Feb. 8, 2000; 69 FR 18803, Apr. 9, 2004]

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§ 11.19 [Reserved]

Subpart B—Preassessment Phase

§ 11.20 Notification and detection.

(a) *Notification.* (1) Section 104(b)(2) of CERCLA requires prompt notification of Federal and State natural resource trustees of potential damages to natural resources under investigation and requires coordination of the assessments, investigations, and planning under section 104 of CERCLA with such trustees.

(2) The NCP provides for the OSC or lead agency to notify the natural resource trustee when natural resources have been or are likely to be injured by a discharge of oil or a release of a hazardous substance being investigated under the NCP.

(3) Natural resource trustees, upon such notification described in paragraphs (a) (1) and (2) of this section, shall take such actions, as may be consistent with the NCP.

(b) *Previously unreported discharges or releases.* If a natural resource trustee identifies or is informed of apparent injuries to natural resources that appear to be a result of a previously unidentified or unreported discharge of oil or release of a hazardous substance, he should first make reasonable efforts to determine whether a discharge or release has taken place. In the case of a discharge or release not yet reported or being investigated under the NCP, the natural resource trustee shall report that discharge or release to the appropriate authority as designated in the NCP.

(c) *Identification of co-trustees.* The natural resource trustee should assist the OSC or lead agency, as needed, in identifying other natural resource trustees whose resources may be affected as a result of shared responsibility for the resources and who should be notified.

[53 FR 5172, Feb. 22, 1988]

§ 11.21 Emergency restorations.

(a) *Reporting requirements and definition.* (1) In the event of a natural resource emergency, the natural resource trustee shall contact the National Response Center (800/424-8802) to report